

IN THE ____ CIRCUIT COURT OF DAVIDSON COUNTY, TENNESSEE
FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

FILED

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RICHARD R. ROOKER, CLERK

am

D.C.

STATE OF TENNESSEE, *ex rel.*
ROBERT E. COOPER, JR.,
Attorney General and Reporter,

Petitioner,

v.

No. _____

PETER THOMAS ROTH, INC.,
a New York corporation,

Respondent.

PETITION

The State of Tennessee, by and through Robert E. Cooper, Jr., the Attorney General and Reporter, (hereinafter "Attorney General"), at the request of Gary Cordell, the Director of the Tennessee Division of Consumer Affairs of the Department of Commerce and Insurance, (hereinafter "Division") (collectively referred to as "Plaintiff", "State" or "State of Tennessee") files this Petition pursuant to Tenn. Code Ann. § 47-18-107 of the Tennessee Consumer Protection Act of 1977 (hereinafter "the Consumer Act"), and respectfully shows the Court as follows:

1. The Division and the Attorney General, acting pursuant to the Consumer Act, have investigated certain acts and practices of Peter Thomas Roth, LLC, (hereinafter, "Respondent"). Upon completion of such investigation, the Division has determined that certain of Respondent's acts and practices, more specifically described in Paragraph 2 of this Petition, constitute violations of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101, *et seq.* (hereinafter "Consumer Act."), § 47-18-104(a), (b)(5), (b)(7), and (b)(27).

2. Based upon the investigation of Respondent, upon information and belief, the State of Tennessee alleges the following:

(A) Respondent is in the business of selling certain eyelash products.

(B) Respondent has developed beauty products such as “Lashes to Die For”, “Brows to Die For” and “Lashes to Die For Platinum” that are designed to help the consumers grow thicker, longer eyelashes and eyebrows.



(B) Respondent has sold and/or offered for sale eyelash products represented as cosmetics, when in fact, the products contain drugs that are subject to FDA approval and labeling guidelines.

(C) Respondents have illegally manufactured, marketed, and sold the eyelash growth products that contain analogs or derivatives of the drug compound prostaglandin without FDA approval.

(D) Respondents have failed to disclose the drugs contained in the eyelash growth products as well as potential health risks associated with the use of analogs or derivatives of the drug compound prostaglandin.

3. Respondent denies the allegations of Paragraph 2 (A-D).

4. Upon completion of its investigation, the Division requested that the Attorney General negotiate, and if possible accept, an Assurance of Voluntary Compliance in accordance with the provisions set forth in Tenn. Code Ann. § 47-18-107.

5. The Attorney General entered into negotiations with Respondent and the parties have agreed to, and the Division has approved, the Assurance of Voluntary Compliance filed contemporaneously herewith.

6. In accordance with the provisions of Tenn. Code Ann. § 47-18-107(c), the execution, delivery and filing of the Assurance do not constitute an admission of prior violation of the Act.


7. The Division, the Attorney General, and the Respondent have jointly agreed to the Assurance of Voluntary Compliance and Agreed Final Order and join in their filing.


PREMISES CONSIDERED, the State of Tennessee prays that:

1. This Petition be filed without cost bond pursuant to the provisions of Tenn. Code Ann. §§ 20-13-101 and 47-18-116.

2. The Assurance of Voluntary Compliance be approved and filed in accordance with the provisions of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 *et seq.*

RESPECTFULLY SUBMITTED,


ROBERT E. COOPER, JR.
Attorney General and Reporter
B.P.R. No. 010934


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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Document Filing has been forwarded via certified mail, postage prepaid, to:

Ellyn Sternfield
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, PC
Counsel for Respondent
701 Pennsylvania Ave., NW, Suite 900
Washington, DC 20004

on this the 13 day of August, 2013.


CAITLIN E. DOTY